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**Barstow Community Hospital – Operated by Community Health Systems, Inc. and United Nurses Association of California, Union of Health Care Professionals, NUHCE, AFSCME, AFL–CIO.**  
Case 31–CA–26057

November 8, 2010

**DECISION AND ORDER**

BY CHAIRMAN LIEBMAN AND MEMBERS PEARCE  
AND HAYES

On August 18, 2008, the two sitting members of the Board issued a Decision and Order in this proceeding, which is reported at 352 NLRB 1052.<sup>1</sup> Thereafter, the General Counsel filed an application for enforcement in the United States Court of Appeals for the Ninth Circuit. On June 17, 2010, the United States Supreme Court issued its decision in *New Process Steel, L.P. v. NLRB*, 130 S.Ct. 2635, holding that under Section 3(b) of the Act, in order to exercise the delegated authority of the Board, a delegee group of at least three members must be maintained. Thereafter, the court of appeals remanded this case for further proceedings consistent with the Supreme Court's decision.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.<sup>2</sup>

The Board has considered the judge's decision and supplemental, and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions and to adopt the recommended Order<sup>3</sup> to the extent and for the reasons stated in the deci-

sion reported at 352 NLRB 1052 (2008), which is incorporated here by reference, except as modified below.<sup>3</sup>

**AMENDED REMEDY**

The Respondent, having discriminatorily suspended and discharged Lois Sanders, must offer her reinstatement and make her whole for any loss of earnings and other benefits, computed on a quarterly basis from the date of her suspension to the date of proper offer of reinstatement, less any net interim earnings, as prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), plus daily compound interest as prescribed in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010).

**ORDER**

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified in 352 NLRB 1052 and as further modified below, and orders that the Respondent, Barstow Community Hospital – Operated by Community Health Systems, Inc., Barstow, California, its officers, agents, successors, and assigns, shall take the action set forth in the recommended Order as modified.

1. Substitute the following for paragraph 2(e).

“(e) Within 14 days after service by the Region, post at its Barstow, California facility, copies of the attached notice marked “Appendix.”<sup>18</sup> Copies of the notice, on forms provided by the Regional Director for Region 31, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since August 31, 2002.”

<sup>1</sup> Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the powers of the National Labor Relations Board in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Thereafter, pursuant to this delegation, the two sitting members issued decisions and orders in unfair labor practice and representation cases.

<sup>2</sup> Consistent with the Board's general practice in cases remanded from the Courts of Appeals, and for reasons of administrative economy, the panel includes the remaining member who participated in the original decision. Furthermore, under the Board's standard procedures applicable to all cases assigned to a panel, the Board members not assigned to the panel had the opportunity to participate in the adjudication of this case at any time up to the issuance of this decision.

<sup>3</sup> In accordance with our decision in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010), we modify the judge's recommended remedy by requiring that backpay and other monetary awards shall be paid with interest compounded on a daily basis. Also, we shall modify the judge's recommended Order to provide for the posting of the notice in accord with *J. Picini Flooring*, 356 NLRB No. 9 (2010). For the rea-

sions stated in his dissenting opinion in *J. Picini Flooring*, Member Hayes would not require electronic distribution of the notice.

Dated, Washington, D.C. November 8, 2010

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Wilma B. Liebman,	Chairman
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Mark Gaston Pearce,	Member
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Brian E. Hayes,	Member
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